

NTSB Order No. EA-5015

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 23rd day of January, 2003

Respondent .

Docket SE-16514

¹ An excerpt of the hearing transcript containing the law judge's decision is attached.

pilot certificate.² We deny respondent's appeal.

The Administrator's complaint contained the following allegations:

1. You are the holder of Commercial Pilot Certificate Number 002118703, with Airplane Single and Multi Engine Land and Instrument ratings.
2. On or about August 15, 2001, you acted as pilot-in-command of civil aircraft N97778, a Mooney Model M-20J, the property of another, on a flight from Minot, North Dakota, to Devils Lake Municipal Airport (DVL), Devils Lake, North Dakota.
3. While the aircraft was on the ground [at] DVL, you departed the aircraft and left the aircraft unattended with [the] engine running and the propeller turning.
4. When you returned, you allowed the aircraft to remain running while you were asleep in the cabin.
5. Your operation was careless and endangered the lives and property of others.

At the hearing, the Administrator presented the testimony of two witnesses who corroborated her allegations. One of these witnesses, an experienced pilot who was awaiting passengers at Wakefield Aviation Services, testified that he observed

² FAR section 91.13, 14 C.F.R. Part 91, provides, in relevant part, as follows:

Sec. 91.13 Careless or reckless operation.

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(b) *Aircraft operations other than for the purpose of air navigation.* No person may operate an aircraft, other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo), in a careless or reckless manner so as to endanger the life or property of another.

respondent taxi up to the ramp outside Wakefield but did not hear the engine shut down, and later observed respondent walk into Wakefield to inquire whether a mechanic was available (and be told that none were). This witness also testified that later he observed the aircraft still parked in the same position on the ramp with the engine running. The other witness, an FAA Aviation Safety Inspector, testified that after observing the aircraft idling he approached to investigate and observed respondent asleep in the left front seat. The inspector testified that he woke respondent, who, according to the inspector, told him that he was concerned that if he shut off the engine it would not start again because of a faulty starter. The inspector, as well as the other witness, testified that respondent's aircraft was not secured with chocks or tie-downs. The inspector testified that respondent's actions were careless, and created an unnecessary risk of injury to persons or damage to other aircraft on the ramp. Respondent presented no witnesses, and declined to testify when invited to do so by the law judge.

At the conclusion of the hearing, the law judge, after noting that respondent presented no rebuttal evidence, found that the Administrator had proved her allegations by a preponderance of the reliable and probative evidence and affirmed the Administrator's order in its entirety.

On appeal, respondent submits a one-page appeal brief that does not provide a viable legal argument or factual basis to

overturn the law judge's decision.³ Indeed, the evidence in this record amply supports the Administrator's charges and the law judge's decision. See Administrator v. Miller, NTSB Order No. EA-4738 (1999).

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;
2. The law judge's initial decision affirming the Administrator's Order of Suspension is affirmed; and
3. The suspension of respondent's certificate shall begin 30 days after the service date indicated on this opinion and order.⁴

HAMMERSCHMIDT, Acting Chairman, and GOGLIA, BLACK, and CARMODY, Members of the Board, concurred in the above opinion and order.

³ Respondent argues that neither witness actually observed the aircraft's engine running while he was out of the aircraft, but, in the absence of any rebuttal evidence from respondent, the circumstantial evidence more than adequately supports the Administrator's allegation and the law judge's findings on this point. Similarly, contrary to respondent's argument, testimony by even one witness (the FAA inspector) that respondent was asleep in the aircraft while the aircraft was unsecured and the engine was running is legally sufficient, in the absence of any rebuttal evidence, to support the law judge's finding in favor of the Administrator on that allegation.

⁴ For purposes of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration, pursuant to 14 C.F.R. 61.19(f).